

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

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SPECIAL EDITION

NEW LAWS AFFECTING VARIOUS COUNTY OFFICES

The following is a digest of some of the laws passed by the 2004 Second Regular Session of the General Assembly affecting various offices in county government. Some of the laws do not pertain directly to a particular county office, but are included in this digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretations, nor is the digest intended to be all inclusive. Reference in the digest will be to the Indiana Code in the following form (Amends IC 33-17-10-5) which means (Amends Indiana Code, Title 33, Article 17, Chapter 10, Section 5). Please note the effective date of each law.

PUBLIC LAW 2- SENATE ENROLLED ACT 86 - EFFECTIVE JULY 1, 2004

-Election Issues

Makes changes to several laws in Title 3 regarding address notations on poll lists.

PUBLIC LAW 11 - SENATE ENROLLED ACT 36 - EFFECTIVE UPON PASSAGE

-Uniform Terms of County Officials

Adds a public question to allow the General Assembly to establish a uniform date for the beginning of the terms of county officials.

PUBLIC LAW 14 - SENATE ENROLLED ACT 72 – VARIOUS EFFECTIVE DATES

-Election Matters

Amends IC 3-5-3-8 – Effective July 1, 2004 – Changed the apportionment language from one-fourth (1/4) to twenty-five percent (25%) and from three-fourths (3/4) to seventy five percent (75%). This apportionment does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for expenses.

Amends IC 3-5-3-9 – Effective July 1, 2004 – If more than one municipality conducts a primary election, the 75% of expenses that cannot be chargeable directly to a municipality shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot at the primary election to the total number of voters cast in all the municipal primary elections. If more than one municipality conducts a municipal election, the 75% of expenses that cannot be chargeable directly to a municipality shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot at the municipal election to the total number of voters cast in all the municipal elections. This does not apply if an agreement is entered under IC 3-10-7-4.

Amends IC 3-5-3-10 – Effective July 1, 2004 – The expense form shall be prescribed by the Indiana Election Commission, no longer by the State Board of Accounts.

PUBLIC LAW 23 - HOUSE ENROLLED ACT 1001 – VARIOUS EFFECTIVE DATES

-Taxation (Note: This bill is substantially the same as Senate Enrolled Act 1, Public Law 1, with some minor revisions. We are only digesting those revisions. You still need to review the digest of SEA 1 PL 1 in the April 2004 regular bulletin.)

Amends IC 6-1.1-22.5 – Effective 3-16-04 – The required statement on the provisional tax statement may be the statutory statement or a substantially similar form, as determined by the DLGF.

PUBLIC LAW 27 - HOUSE ENROLLED ACT 1029 - EFFECTIVE JULY 1, 2004

-Seizure of State Income Tax Refund for Delinquent Child Support

Adds new section IC 31-16-12.5 – This does not apply to a support order entered in a Title IV-D case. A custodial parent may file a petition for a setoff of child support from a state tax refund payable to a child support obligor. Child support arrearage must be at least \$1,500. Once a final order of the court is issued, the Indiana Department of Revenue shall withhold from the obligor's refund. Department of Revenue shall submit the refund amount to the clerk of the circuit court for distribution. If the court determines an amount is owed the state, the court shall order the clerk to distribute the refund to the state and if any amounts remain to the custodial parent. A final order may include interest charges.

PUBLIC LAW 28 - HOUSE ENROLLED ACT 1032 - EFFECTIVE JULY 1, 2003 (Retroactive)

-Electronic Reports to General Assembly

Amends IC 36-2-9-20 – Requires the county auditor to transmit the data contained on the tax duplicate to the legislative services agency in an electronic format under IC 5-14-6.

PUBLIC LAW 31 - HOUSE ENROLLED ACT 1046 - EFFECTIVE JULY 1, 2004

-County Barrett Law

Amends IC 36-9-36-2 – Allows counties to use Barrett Law funding for lighting.

PUBLIC LAW 32 - HOUSE ENROLLED ACT 1050 - EFFECTIVE JULY 1, 2004

-County Planning and Zoning Boards

Amends IC 36-7-4-208 – Revises the makeup of the advisory board to include at least two members who are residents of the unincorporated area of the county. Amends the definition of resident of the unincorporated area for the advisory and area boards.

PUBLIC LAW 41 - HOUSE ENROLLED ACT 1178 - EFFECTIVE JULY 1, 2004

-Volunteer Advocates for Seniors

Adds IC 29-3-1-16 – Allows court to appoint a volunteer advocate for seniors. This person is considered an officer of the court.

PUBLIC LAW 49 - HOUSE ENROLLED ACT 1257 - EFFECTIVE JULY 1, 2004

-Volunteer Firefighters

Adds IC 36-8-12-10.5 – Political subdivision employer may not discipline an employee for being absent from employment if responding to a call prior to coming to work or for leaving their job if responding once at work. Employee must notify employer in writing that they are a firefighter. Employer may require the employee to present a written statement from the fire chief indicating that the employee was engaged in an emergency activity. An employee who is disciplined may bring civil action against the employer. Employee may seek back wages, reinstatement to former position, fringe benefits denied, and seniority rights denied. Action must be brought within one year.

PUBLIC LAW 50 - HOUSE ENROLLED ACT 1265 - EFFECTIVE JULY 1, 2004
-State and Multi-State Prescription Drug Aggregate Purchasing Program

Adds IC 16-47-1 and IC 16-47-2- Allows the state to establish an aggregate prescription drug purchasing program. Allows a county to participate in the program.

PUBLIC LAW 64 - HOUSE ENROLLED ACT 1005 – VARIOUS EFFECTIVE DATES
-Sales Disclosure Information and Real Estate Closings

Amends IC 6-1.1-5.5-3 – Effective July 1, 2004 – If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

Adds IC 6-1.1-12-43 – Effective March 17, 2004 – Before closing a transaction after 12-31-04, a closing agent must provide to the customer a form that will be prescribed by DLGF. This form will be made available to closing agents, county assessors, auditors, and treasurers in hard copy and electronic form. Assessors, auditors, and treasurers shall make the form available to the general public. Closing agent may be fined \$25 for each instance where the closing agent fails to provide customer the form. DLGF will enforce and collect penalty which goes to state property tax replacement fund.

Amends IC 6-1.1-22-8 – Effective March 17, 2004 – Establishes a pilot program by DLGF for the mailing of tax related information by the county. Five counties will be selected to initially participate, any other county can choose to participate if commissioners adopt an ordinance, and for everyone for taxes first due and payable after December 31, 2007. This section details the information required to be presented to taxpayers. For the five pilot counties this applies to taxes first due and payable after 12-31-04. For those volunteer counties, if specified in ordinance, for taxes first due and payable after 12-31-03.

PUBLIC LAW 65 - HOUSE ENROLLED ACT 1062 - EFFECTIVE JULY 1, 2004
-Transcripts

Amends IC 33-1-4-1 – Changes manuscripts or transcripts to typed or printed and does away with longhand.

Adds IC 33-19-6.5-2.5 – This section replaces IC 33-19-6.5-2 which was passed last year regarding credit card fees. It now states that the fee the clerk shall collect must equal the vendor transaction fee or discount fee. Prior language allowed clerk to determine the fee.

Adds IC 35-33-8-10 and IC 35-33-9-8 – Requires a defendant who posts bail by credit card to pay the credit card service fee.

PUBLIC LAW 67 - HOUSE ENROLLED ACT 1098 - EFFECTIVE JULY 1, 2005
-Child Restraint Judgments

Amends IC 9-19-11 – Judgments for violations of the child restraint law shall be deposited in the state child restraint system account.

PUBLIC LAW 73 - HOUSE ENROLLED ACT 1229 - EFFECTIVE JANUARY 1, 2005
-Recording Fees

Adds IC 24-9-9 and Amends IC 36-2-7-10 – County recorder shall assess a fee of \$3 for each mortgage recorded. Fee to be remitted monthly to county auditor. \$.50 of this fee shall go to the recorder's record perpetuation fund. On or before June 20 and December 20 of each year, the county auditor shall distribute to the auditor of state \$2.50 of this fee for each mortgage recorded.

PUBLIC LAW 78 - HOUSE ENROLLED ACT 1320 - EFFECTIVE JANUARY 1, 2004

-Mental Health Funding

Adds IC 12-29-2-1.2 and Amends IC 12-29-2-2 – Modifies how a county funds mental health. Addresses bonds for mental health.

Adds IC 12-29-2-20 – On the first Monday in October, the county auditor shall certify to the mental health center, the amount of money that will be provided. Payment to the mental health center shall be paid by the county treasurer in the following manner: One-half (1/2) shall be made on the second Monday in July and one-half (1/2) on the second Monday in December.

PUBLIC LAW 79 - HOUSE ENROLLED ACT 1345 – EFFECTIVE MARCH 17, 2004

-Military Leave of Elected Officials

Adds IC 5-9-4 – This applies to a county officer called to active duty who may not appoint a deputy. They are entitled to a leave of absence. The office holder has not vacated the office by taking a leave of absence. Shall give written notice to the person designated to receive resignations for that office in IC 5-8-3.5-1. During the absence, the position must be filled by a temporary appointment by the precinct committee. Person appointed serves until the leave ends or term expires. Person appointed assumes all rights and duties and is entitled to compensation. Officeholder shall resume position once leave is completed.

PUBLIC LAW 81 - HOUSE ENROLLED ACT 1365 – VARIOUS EFFECTIVE DATES

-Various Local Government Issues

Amends IC 36-1-8-5.1 – Effective March 17, 2004 – Adds additional funding sources of the rainy day fund to include anything specified in the ordinance and not otherwise prohibited by law.

Adds IC 36-9-41 – Effective July 1, 2004 – Addresses financing of public works projects that will cost the political subdivision not more than \$2,000,000. Political subdivision may borrow the money necessary to finance the project from a financial institution in Indiana by executing a negotiable note. Notice of this must be advertised and is chargeable against the constitutional debt limit. Political subdivision shall execute and deliver the note to the financial institution. Note must bear interest, with both principal and interest payable in equal or approximate equal installments on January 1 and July 1 each year over a period not exceeding six years. The first installment of principal and interest is due on the next January 1 or July 1 following the first tax collection for which it is possible for the political subdivision to levy a tax. Political subdivision shall appropriate an amount for and levy a tax each year sufficient to pay the obligation. Once notice is given, not less than 10 taxpayers who disagree with the determination may file a petition with the auditor not more than 30 days after notice is given. Petition must state the taxpayers' objection and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise. Upon receiving the petition, the auditor shall immediately certify a copy to DLGF who shall set a hearing. DLGF shall give notice of hearing and shall issue a final determination concerning the petition. Taxpayer or political subdivision may appeal the determination to the tax court.

Adds IC 6-1.1-12.1-14 – Effective July 1, 2004 – Economic revitalization deduction property owner in certain circumstances shall pay to the treasurer a fee in an amount determined by the auditor. Auditor determines fee using a formula in statute. Fees collected must be distributed to entities designated by the designating body. If owner does not pay the fee, the designating body may terminate the deduction.

PUBLIC LAW 85 – HOUSE ENROLLED ACT 1437 – EFFECTIVE JULY 1, 2004

-Costs of Incarceration

Amends IC 36-2-13-5 – The sheriff shall, on or before January 31 and June 30 of each year, provide the department of correction the average daily costs of incarcerating a prisoner in the county jail using a methodology developed by the department of correction.

PUBLIC LAW 85 – HOUSE ENROLLED ACT 1437 – EFFECTIVE JULY 1, 2004 (CONTINUED)

-Costs of Incarceration

Amends IC 33-37-4-1 through IC 33-37-4-7 (formally IC 33-19-5-1 through IC 33-19-5-7) – Adds a new judicial administration fee to all court cases.

Adds IC 33-37-5-21.2 – Clerk shall collect a new judicial administrative fee. The fee is \$1 for the period 7-1-04 to 6-30-05, and \$2 after 6-30-05. Amends 33-37-7-1 (formally IC 33-19-7-1) – Clerk shall semiannually distribute to the auditor of state 100% of the judicial administration fee.

PUBLIC LAW 90 – HOUSE ENROLLED ACT 1055 – VARIOUS EFFECTIVE DATES

-Refund of Taxes of Religious Institutions

Noncode – Effective March 18, 2004 – Allows religious institutions under certain conditions can retroactively receive the exemption for property taxes. If approved, the religious institution may file a claim for refund. If the auditor determines that the claim is correct, the auditor shall, without appropriation, issue a refund check from the general fund. No interest is payable on refund. If the religious institution incurred property tax liabilities for failing to file exemption and the exemption is subsequently approved, the treasurer shall forgive the property taxes, penalties, and interest.

PUBLIC LAW 93 - HOUSE ENROLLED ACT 1266 - EFFECTIVE JULY 1, 2004

-Internet Purchasing

Adds IC 5-22-7.5 – Purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site. Purchasing agency must adopt written policies as required by statute. Construction equipment which is greater than \$10,000 may not be purchased using a reverse auction.

PUBLIC LAW 97 - SENATE ENROLLED ACT 106 – VARIOUS EFFECTIVE DATES

-Various Issues

Amends IC 10-17-10-1 – Burial allowance for veterans is set by ordinance of the county commissioners. Allowance may not be more than \$1,000.

PUBLIC LAW 98 - SENATE ENROLLED ACT 263 - EFFECTIVE JULY 1, 2004

-Title 33 Recodification

Adds new sections beginning at IC 33-22 to recodify Title 33.